UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/879,840	06/12/2001	Robert M. English	103.1071.01	3690

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EXAMINER
PATEL, NIKETA I

ART UNIT	PAPER NUMBER
2182	

DATE MAILED: 08/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

		Application No.	Applicant(s)
Office Action Summary		09/879,840	ENGLISH ET AL.
		Examiner	Art Unit
		Niketa I. Patel	2182

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>05/20/2005</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-23</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-23</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>12 June 2001</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Allowable Subject Matter

1.   The indicated allowability of claims 9-10, 19-20 and 22-23 is withdrawn in view of the

newly discovered reference(s) to Holmes et al. U.S. Patent Number: 5,247,683. Rejections based

on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 112

2.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the
> subject matter, which the applicant regards as his invention.

3.   Claims 1-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for

failing to particularly point out and distinctly claim the subject matter which applicant regards as

the invention.

        a.   The independent claims 1 and 11 recites the limitation of *"at least one variable"*

and *"a single variable"* through the claim language. It is unclear whether these variables

are supposed be equivalent or related to each other. In a similar manner claims 15, 19-20

and 22-23 recites the limitation of *"at least one variable"* through out the claim language.

The Examiner presumes that each of these variables are different and that they are not

related in any way, remainder of the office action is written accordingly. Further

clarification on this limitation is kindly requested.

        b.   The terms "*relatively local*" and *"relatively remote"* in claims 1, 11, 15,19, 20, 22

and 23 are relative terms, which renders the claim indefinite. The terms "*relatively local*

" and *"relatively remote"* are not defined by the claim, the specification does not provide

a standard for ascertaining the requisite degree, and one of ordinary skill in the art would

not be reasonably apprised of the scope of the invention. These terms renders the location

of the information and the information server indefinite.

c.   Claim 22 recites the limitation *"second information server"* in the last two lines

of the claim. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5.   As far as the examiner can interpret the claims in light of the second paragraph of 35

U.S.C. 112, supra, the claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable

over O'Toole et al. U.S. Patent Number 6,757,723 B1 (hereinafter *"O'Toole"*) and further in

view of Holmes et al. U.S. Patent Number: 5,247,683 (hereinafter referred to as *"Holmes"*.)

6.   Referring to claims **1, 11, 15,** *O'Toole* teaches including at a first device [see column 4,

lines 62-67, column 5, lines 1-5, 21-25, 'SODA appliances 18'], reading a set of information, at

least some of said information located relatively local to said first device and at least some of

said information obtained form an information server relatively remote [see column 6, lines 50-

55 and column 7, lines 19-40] from said first device, and setting values for at least one variable

at said first device in response to said information [see column 7, lines 19-40, 'configuration

table']; at a second device [see column 4, lines 62-67, column 5, lines 1-5, 21-25, 'SODA appliances 18'], reading a set of information, at least some of said information located relatively local to said second device and at least some of said information obtained from an information server relatively remote form said second device [see column 6, lines 50-55 and column 7, lines 19-40], and setting values for at least one variable at said second device in response to said information [see column 7, lines 19-40, 'configuration table']; wherein at least some of said information is common to both said first device and said second device [see column 7, lines 19-40 and column 12, lines 41-67, 'ownership data'.] *O'Toole* is silent regarding resolving conflicts when said information assigns two inconsistent values to a single variable by determining, for any two sources for said information, a higher priority source and a lower priority source, however *Holmes* teaches the above limitation [see *Holmes* column 2, lines 59-66] in order to allow for clashes between changes required by each piece of software to be resolved on a priority basis.

One of ordinary skill in the art at the time of applicant's invention would have clearly recognized that it is quite advantageous for the system of *O'Toole* to allow for clashes between changes required by each piece of software to be resolved on a priority basis. It is for this reason that one of ordinary skill in the art would have been motivated in resolving conflicts when said information assigns two inconsistent values to a single variable by determining, for any two sources for said information, a higher priority source and a lower priority source in order to allow for clashes between changes required by each piece of software to be resolved on a priority basis.

7.   **Referring to claims 2, 12**, teachings of *O'Toole* as modified by the teachings of *Holmes*

teaches wherein said information includes configuration information used at start-up by said first

device [see *O'Toole* column 7, lines 28-40.]

8.   **Referring to claims 3, 13, 16**, teachings of *O'Toole* as modified by the teachings of

Holmes teaches recording said information at selected times for said first device [see *O'Toole*

column 23, lines 60-65]; at said first device, reading said recorded information in addition to said

set of information [see *O'Toole* column 23, lines 60-67 and column 24, lines 1-11]; and

comparing said recorded information with at least some of said set of information [see *O'Toole*

column 23, lines 60-67 and column 24, lines 1-11 and column 22, lines 1-7.]

9.   **Referring to claims 4, 14, 17**, teachings of *O'Toole* as modified by the teachings of

Holmes teaches wherein said comparison includes a set of resources form which said information

can be obtained by said first device [see *O'Toole* figure 3, elements 30,2,34,36] and including re-

performing said operations of reading said set of information and setting values until said set of

resources is substantially unchanged [see *O'Toole* column 23, lines 60-67 and column 24, lines

1-11 and column 22, lines 1-7.]

10.   **Referring to claim 5**, teachings of *O'Toole* as modified by the teachings of *Holmes*

teaches wherein said selected times include at each restart of said first device [see *O'Toole*

column 6, lines 50-55, 'boot algorithm'.]

11.   **Referring to claims 6, 18**, teachings of *O'Toole* as modified by the teachings of *Holmes*

teaches wherein said information includes a set of resources from which said information can be

obtained by said first device [see *O'Toole* figure 3, elements 30,2,34,36,44.]

12.   **Referring to claim 7,** teachings of *O'Toole* as modified by the teachings of *Holmes*

teaches wherein said set of resources includes at least a first file at a first said information server

[see *O'Toole* figure 3, elements 30,2,34,36] and a second file at a second information server [see

O'Toole figure 3, element 44 and column 5, lines 35-57.]

13.   **Referring to claim 8,** teachings of *O'Toole* as modified by the teachings of *Holmes*

teaches wherein said set of resources includes at least one file at said information server [see

O'Toole figure 3, element 28.]

14.   **Referring to claim 9,** teachings of *O'Toole* as modified by the teachings of *Holmes*

teaches wherein said information includes a set of values for named variables, and wherein said

resolving conflicts further includes parsing, from said higher priority source, an instruction

relating to setting said variable; and performing said instruction from said higher priority source

[see *Holmes* column 2, lines 42-66.]

15.   **Referring to claim 10,** teachings of *O'Toole* as modified by the teachings of *Holmes*

teaches wherein said instruction has a syntactic form indicating one or more of the following

operations: replacing a value from said lower priority source with a value form said higher

priority source, or appending a value from said higher priority source to a value form said lower

priority source [see *Holmes* column 2, lines 42-66.]

16.   As far as the examiner can interpret the claims in light of the second paragraph of 35

U.S.C. 112, supra, the claims 19-23 are rejected under 35 U.S.C. 103(a) as being unpatentable

over O'Toole et al. U.S. Patent Number 6,757,723 B1 (hereinafter *"O'Toole".*)

17.   **Referring to claims 19, 22,** *O'Toole* teaches including at a first device [see column 4,

lines 62-67, column 5, lines 1-5, 21-25, 'SODA appliances 18'], reading a set of information, at

least some of said information located relatively local to said first device and at least some of

said information obtained form an information server relatively remote [see column 6, lines 50-

55 and column 7, lines 19-40] from said first device, and setting values for at least one variable

at said first device in response to said information [see column 7, lines 19-40, 'configuration

table']; at a second device [see column 4, lines 62-67, column 5, lines 1-5, 21-25, 'SODA

appliances 18'], reading a set of information, at least some of said information located relatively

local to said second device and at least some of said information obtained from an information

server relatively remote form said second device [see column 6, lines 50-55 and column 7, lines

19-40], and setting values for at least one variable at said second device in response to said

information [see column 7, lines 19-40, 'configuration table']; wherein at least some of said

information is common to both said first device and said second device [see column 7, lines 19-

40 and column 12, lines 41-67, 'ownership data']; wherein said set of information is disposed at

a sequence of locations to be read by said first device [see *O'Toole* figure 3, elements

30,2,34,36,44]; further including selecting said sequence of locations in response to a variable

settable in response to at least one said information server [see *O'Toole* column 6, lines 50-64];

O'Toole is silent regarding wherein a relative priority is defined for a first and a second

information server in response to a relative position of said first and second information server in

said sequence.

It would have been obvious to one of ordinary skill in the art at the time of applicant's

invention that it was old and well known in the computer art to get the advantage of saving

valuable network resources by assigning higher priority to a server located in a local network and

a lower priority to a server located in a remote network. It would have been obvious to one or

ordinary skill in the art at the time of applicant's invention to define relative priority for a first

and a second information server in response to a relative position of said first and second

information server in said sequence.

18.   **Referring to claims 20, 23,** *O'Toole* teaches including at a first device [see column 4,

lines 62-67, column 5, lines 1-5, 21-25, 'SODA appliances 18'], reading a set of information, at

least some of said information located relatively local to said first device and at least some of

said information obtained form an information server relatively remote [see column 6, lines 50-

55 and column 7, lines 19-40] from said first device, and setting values for at least one variable

at said first device in response to said information [see column 7, lines 19-40, 'configuration

table']; at a second device [see column 4, lines 62-67, column 5, lines 1-5, 21-25, 'SODA

appliances 18'], reading a set of information, at least some of said information located relatively

local to said second device and at least some of said information obtained from an information

server relatively remote form said second device [see column 6, lines 50-55 and column 7, lines

19-40], and setting values for at least one variable at said second device in response to said

information [see column 7, lines 19-40, 'configuration table']; wherein at least some of said

information is common to both said first device and said second device [see column 7, lines 19-

40 and column 12, lines 41-67, 'ownership data']; wherein said set of information is disposed at

a sequence of locations to be read by said first device [see *O'Toole* figure 3, elements

30,2,34,36,44.] *O'Toole* is silent regarding further including selecting said sequence of locations

in response to a variable settable in response to at least one said information server.

It would have been obvious to on of ordinary skill in the art at the time of applicant's

invention that it was old and well known in the computer art to get the advantage of being able to

provide locations of configuration information by setting a variable in information server

response. It would have been obvious to one of ordinary skill in the art at the time of applicant's

invention to further including selecting said sequence of locations in response to a variable

settable in response to at least one said information server to get this advantage.

19.   **Referring to claims 21**, teachings of *O'Toole* as modified above teaches wherein said

information includes a set of resources from which said information can be obtained by said first

device [see *O'Toole* figure 3, elements 30,2,34,36,44.]

Response to Arguments

20.   Applicant's arguments with respect to claims 1-23 have been considered but are moot in

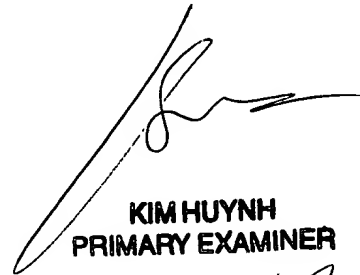view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Niketa I. Patel whose telephone number is (571) 272 4156. The

examiner can normally be reached on M-F 8:00 A.M. to 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Dov Popovici can be reached on (571) 272 4083. The fax phone number for the

organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

NP
07/31/2005

KIM HUYNH
PRIMARY EXAMINER

8/5/05